IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5263 OF 2005

The State of Maharashtra, .. Applicant.

Vs

Sou Pradnya Sanjay Kulkarni, .. Respondent

Mrs M.H.Mhatre, APP for the applicant.
Mr P.R.Arjunwadkar, for respondent.

CORAM : D.B.BHOSALE, J.
DATED : 20th July, 2006

P.C.:

1. Heard Mr Mhatre, learned APP for the applicant and Mr Arjunwadkar, learned counsel for the respondent.

2. This is an application under section 378 of the Code of Criminal Procedure, seeking leave to appeal against the judgment and order dated 15.1.2005 rendered by the 4th Ad-hoc Addl.Sessions Judge, Solapur, acquitting the respondent-accused of the offence punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under section 7(1)(d) of the Protection of Civil Rights Act. The trial Court, on appreciation of the evidence led by the prosecution and in particular the testimonies of PWs 1 to 3, has recorded a categoric finding that there is inconsistency in the evidence of all the three witnesses and the testimony of the complainant has not been corroborated by PWs 2 and 3 so as to prove the offence beyond reasonable doubt. Delay of three

months in filing the complaint was also taken into consideration for acquitting the accused. I perused the judgment and in particular paragraphs 17 to 23 thereof, wherein the learned Judge has considered the evidence of all the three witnesses in detail. It is clear from the discussion that the witnesses are not consistent. There is inconsistency even in respect of the sequence of events stated by all the witnesses. It further appears that the accused was an Administrative Officer in the hospital where the complainant and PW 3 were working as ward boys and against both of them the show causes notices were issued and as a matter of fact, the service of the complainant was terminated after holding a departmental enquiry against him. Keeping all that in view and considering the reasons recorded by the learned Judge, in my opinion, the judgment of the trial Court cannot be termed as perverse or unreasonable. The view taken by the learned Judge is reasonably possible view and is based on material on record. Merely because other view is possible on the basis of the same material, that by itself is not sufficient to grant leave to appeal. I did not find any manifest illegality or perversity, worth mentioning, in the judgment. In the circumstances, the application seeking leave to appeal is rejected.

(D.B.BHOSALE,J.)